

Brian C. Pascale (bp3770)
WEITZPASCALE
Attorneys for Plaintiff
ERNEST LUPINACCI
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERNEST LUPINACCI,

Plaintiff,

Civil Action No.: 1:17-cv-8631

-against-

COMPLAINT

SUSAN JOSEPHSON, individually,
a/k/a SUSAN ADLER, individually,
and/or d/b/a DREAMMAKERS
MEDIA, LLC, and/or 1ON1, LLC,

Defendants.

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Plaintiff, ERNEST LUPINACCI, by and through his attorneys, WEITZPASCALE, complaining of Defendants, SUSAN JOSEPHSON, individually a/k/a SUSAN ADLER individually, and/or d/b/a DREAMMAKERS MEDIA, LLC, and/or 1ON1, LLC, alleges as follows:

JURISDICTION & VENUE

1. This action is brought pursuant to 28 U.S.C. § 1332(a)(1) based upon Diversity of Citizenship and because the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

2. Venue in this District is appropriate pursuant to 28 U.S.C. § 1391, as the Southern District of New York is the Judicial District in which a substantial part of the events forming the basis of the Complaint occurred, where a part of the evidence involved in the subject action is situated, and where the majority of the witnesses to the events forming the basis of the Complaint reside. Furthermore, the Defendants exceed the requisite minimum contacts for jurisdiction in this District.

THE PARTIES

3. Plaintiff, ERNEST LUPINACCI, is a domiciliary of the State of New York and resides in Manhattan (New York County), which is located within the Southern District of New York.

4. Defendant, SUSAN JOSEPHSON, is a citizen of the State of California.

5. Defendant, DREAMMAKERS MEDIA, LLC, is a limited liability company duly organized and existing under and by virtue of the laws of the State of California with its principal place of business in the State of California.

6. The registered agent of Defendant, DREAMMAKERS MEDIA, LLC is located in California.

7. Defendant, 1ON1, LLC, is a limited liability company duly organized and existing under and by virtue of the laws of the State of Delaware with its principal place of business in the State of California.

8. The registered agent of Defendant, 1ON1, LLC is located in Delaware.

FACTUAL ALLEGATIONS

9. Defendant, SUSAN JOSEPHSON, is the chairperson of Defendants DREAMMAKERS MEDIA, LLC, and 1ON1, LLC. Hereinafter also collectively referred to as Defendants. On or about July 16, 2016, Plaintiff, ERNEST LUPINACCI, and Defendant, SUSAN JOSEPHSON, entered into a contract and/or agreement relative to the performance of certain branding, web site, web application, corporate identity work, labor, and services he was to perform for Defendants, SUSAN JOSEPHSON, DREAMMAKERS MEDIA, LLC, 1ON1, and/or 1ON1, LLC. Plaintiff's performance of the aforementioned branding, web site, web application, corporate identity work, labor, and services for Defendants began on or about July 16, 2016.

10. Pursuant to the aforementioned contract between the Plaintiff, ERNEST LUPINACCI, and the Defendants, SUSAN JOSEPHSON DREAMMAKERS MEDIA, LLC, 1ON1, and/or 1ON1, LLC, for which Plaintiff was to be paid a valuable consideration in the sum of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS and allocated and vested in one (1%) percent equity ownership of Defendants' business.

11. Defendant has placed company for public offering. In their public offering they placed a value on Defendants' business at one billion (\$1, 000, 000, 000.00) dollars. Therefore, one (1%) percent is valued at ten million (\$10,000,000.00) dollars.

AS AND FOR A FIRST CAUSE OF ACTION
BREACH OF CONTRACT

12. Plaintiff, ERNEST LUPINACCI, relied upon the said contract and representations made by the Defendants in entering into the performance and production

of said work, labor, and services. Plaintiff, has complied with all requirements and provisions of said contract and/or agreement made between himself and the Defendants. Defendants has failed to comply with the requirements and provisions of said contract and/or agreement relative to the payment of such monies and equity to the Plaintiff.

AS AND FOR A SECOND CAUSE OF ACTION
UNJUST ENRICHMENT

13. Plaintiff, ERNEST LUPINACCI, provided Defendants with Branding services and other products of considerable value, for which Defendants promised compensation in return. Defendants acknowledged, accepted, and benefited from said valuable services. As such Defendants herein have unjustly profited and enriched themselves at Plaintiff's expense, without making restitution for the reasonable value of services and benefits proffered by the Plaintiff. Accordingly, Plaintiff, ERNEST LUPINACCI, is entitled to recovery against the Defendants by virtue of the unjust enrichment doctrine.

AS AND FOR A THIRD CAUSE OF ACTION
BREACH OF IMPLIED COVENANT OF GOOD FAITH

14. In entering into the contract and agreement, and accepting and benefiting from said services proffered and produced by the Plaintiff, ERNEST LUPINACCI, Defendants entered into an implied covenant of good faith and fair dealing based upon the general presumption that the parties to said contract would deal with each other honestly, fairly, and in good faith, so as to not destroy the right of the other party to receive the benefits of the contract.

15. Defendants converted for their own use, benefit, and unjust enrichment, said monies withheld from the Plaintiff, ERNEST LUPINACCI, which were to be payment of fees and equity owed him pursuant to the terms of said contract and agreement.

16. That at all times herein mentioned, the Defendants have carelessly, negligently, and/or improperly omitted, refused, and/or failed to comply with the terms, requirements, clauses, and provisions of said contract and/or agreement relative to the payment of such monies and equity to Plaintiff, ERNEST LUPINACCI.

AS AND FOR A FOURTH CAUSE OF ACTION
FRAUD

17. Defendants have fraudulently omitted, refused, and/or failed to comply with the terms, requirements, clauses, and provisions of said contract and agreement relative to the payment of such monies and equity to the Plaintiff, ERNEST LUPINACCI.

18. Defendants have fraudulently hidden, concealed, and/or suppressed from the Plaintiff, ERNEST LUPINACCI, material facts and/or circumstances they were legally bound to disclose to Mr. LUPINACCI in compliance with the requirements and provisions of said contract and/or agreement relative to the payment of such monies and equity to the Plaintiff.

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AS AND FOR A FOURTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY

19. Defendants breached the fiduciary duty they owed to the Plaintiff, ERNEST LUPINACCI pursuant to the requirements and provisions of said contract and agreement relative to the payment of such monies and equity fees to the Plaintiff.

20. Defendants have conspired to breach their fiduciary duty owed to the Plaintiff, ERNEST LUPINACCI pursuant to the requirements and provisions of said contract and agreement relative to the payment of such monies and equity fees to the Plaintiff.

21. Defendants intentionally, deliberately, fraudulently, and illegally breached the said contract and agreement with the Plaintiff, ERNEST LUPINACCI.

22. Defendants intentionally, wantonly, maliciously, illegally, deceptively and fraudulently refused and/or failed to comply with the terms, requirements, clauses, and provisions of said contract and agreement relative to the payment of such monies and equity fees to the Plaintiff, ERNEST LUPINACCI.

AS AND FOR A FIFTH CAUSE OF ACTION
FRAUDULENT REPRESENTATION

23. The promises and representations made by the Defendants were for the purpose of fraudulently inducing the Plaintiff, ERNEST LUPINACCI, to enter into such contract for the performance and production of such work, labor and services.

24. The promises and representations made by the Defendants were for the purpose of intentionally, wantonly, maliciously, illegally, deceptively and fraudulently

inducing the Plaintiff, ERNEST LUPINACCI, to enter into such contract for the performance and production of such work, labor and services.

25. By reason of the foregoing, the Plaintiff, ERNEST LUPINACCI, has been damaged in the sum of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS, in addition to being allocated and vested in one (1%) percent equity in the Defendants' business in an amount to be determined upon the trial of this action, plus loss of interest, costs, expenses and punitive damages from July 16, 2016 to date and continuing.

JURY DEMAND

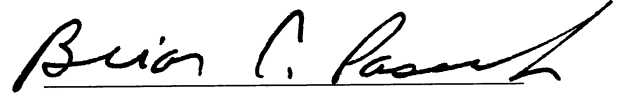
26. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff, ERNEST LUPINACCI, demands judgment against Defendants, SUSAN JOSEPHSON, DREAMMAKERS MEDIA, LLC, and/or 1ON1, and/or 1ON1, LLC, , in amount which exceeds the sum of ONE MILLION (\$1,000,000.00) DOLLARS; in addition to being allocated and vested in one (1%) percent equity in the Defendants' business, together with interest, costs, and disbursements of this action.

Dated: Mineola, New York
November 6, 2017

Yours, etc.

WEITZPASCALE

A handwritten signature in black ink, appearing to read "Brian C. Pascale". The signature is fluid and cursive, with a long horizontal stroke at the end.

By: BRIAN C. PASCALE

Attorneys for Plaintiff

ERNEST LUPINACCI

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SUSAN ADLER
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Beverly Hills, CA 90210-2107

DREAMMAKERS MEDIA, LLC
10960 Wilshire Boulevard, Suite 700
Los Angeles, CA 90024

1ON1, LLC
United Corporate Services, Inc.
874 Walker Road, Suite C
Dover, DE 11904

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